

PATENT APPLICATION  
CH7812/LEA 36267

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF )  
Siegfried Blechert ) GROUP NO.: 1713  
SERIAL NUMBER: 10/628,707 ) EXAMINER: Harlan, R.  
FILED: July 28, 2003 ) CONFIRMATION NO.: 5177  
TITLE: METATHESIS CATALYSTS )

**PETITION UNDER 35 CFR 1.181(A)**  
**REQUESTING WITHDRAWAL OF THE HOLDING OF ABANDONMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir or Madam:

The above identified application became abandoned on April 2, 2008. The Patent Publication Branch did not properly charge the issue fee and publication fee to the authorized Deposit Account No. 50-2527. The subject Petition is being timely filed within 2 months of the mail date of the Notice of Abandonment, in accordance with 37 CFR 1.181.

I hereby certify that this correspondence is being deposited with the United States Postal Service via EFS-WEB on the date below:

Anne B. Edgar  
Name of person sending transmission  
  
Signature  
April 17 2008  
Date

REMARKS

Applicants filed the subject application with the general authorization to charge all fees during pendency to Deposit Account No. 50-2527. The general authorization is indicated in the Fee Transmittal under the section entitled "Method Of Payment." A copy of the Transmittal is attached hereto. Such an authorization permits the USPTO to charge any fees during the prosecution of the application to the listed Deposit Account. Prosecution of the application continued until Applicants received a Notice of Allowance in the subject application on October 9, 2007, and a Supplemental Notice of Allowance on December 31, 2007.

Applicant submitted Form PTOL-85, a copy of which is attached, to pay the issue fee and publication fee on December 19, 2007. This submission is a clear indication of the Applicant's intent to have the application issue into a U.S. patent. The Deposit Account section of Form PTOL-85 was inadvertently not populated when it was transmitted to the USPTO. The USPTO subsequently did not charge the post allowance fees to the Deposit Account, even though the general authorization was transmitted to the USPTO. As such, the USPTO issued a Notice of Abandonment for apparently not submitting the post allowance fees. Applicants believe that the Office erred in not charging the post allowance fees to the Deposit Account in view of the Applicants clear intent to pay the outstanding fees and in view of the general authorization.

Applicants have attempted to resolve this issue telephonically by contacting the Patent Publication Branch, the Office of Legal Administration and the Examiner. The Office of Legal Administration and the Examiner suggested that this Petition be filed, directing the Office's attention to the July 28, 2003, general authorization to charge fees to Deposit Account No. 50-2527. Applicant is relying on MPEP §1306, which states:

"Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general

authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee."

Furthermore, 37 C.F.R. § 1.311 states that, "an authorization to charge the issue fee or other post-allowance fees set forth in § 1.18 to a deposit account may be filed in an individual application only after mailing of the notice of allowance. The submission of either of the following after the mailing of a notice of allowance will operate as a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge such fees:

- (1) An incorrect issue fee or publication fee; or
- (2) A fee transmittal form (or letter) for payment of issue fee or publication fee."

Applicants submitted PTOL-85 clearly intending to pay the post allowance fees in view of a general authorization. As such, Applicants believe that the USPTO erred and should have charged the fees to the deposit account and should not have issued a Notice of Abandonment.

Applicants respectfully request that the above evidence be considered and that the Office recognizes Applicant's intent to pay the post allowance fees and the previously submitted general authorization to charge fees. Furthermore, Applicant respectfully requests that the holding of abandonment be withdrawn so that the divisional application filed concurrently is properly claiming priority to an existing application.

Therefore, it is respectfully requested that the Petitions Office grant the subject Petition and direct Patent Publication Branch to (i) withdraw the holding of abandonment; (ii) to charge Deposit Account No. 50-2527 for the required issue fee and publication fee and (iii) process the application to issuance.

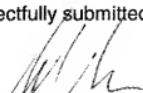
A Terminal Disclaimer is not required for this Petition.

Although it is Applicant's understanding that this Petition does not require a fee, the USPTO is hereby authorized to charge any fees which may be required by this

paper for any purpose and/or to credit any overpayments to Deposit Account No. 50-2527.

Respectfully submitted,

By

  
Michael A. Miller  
Attorney for Applicants  
Reg. No. 50,732

LANXESS Corporation  
111 RIDC Park West Drive  
Pittsburgh, Pennsylvania 15205-9741  
(412) 809-2232  
FACSIMILE PHONE NUMBER:  
(412) 809-1054  
/abe